

DEVELOPMENT REVIEW COMMITTEE

Tuesday, August 25, 2020

MEETING MINUTES

The Monroe County Development Review Committee conducted a virtual meeting on **Tuesday, August 25, 2020**, beginning at 1:00 p.m. via Communications Media Technology (CMT), a Zoom Webinar platform.

CALL TO ORDER by Emily Schemper

ROLL CALL by Ilze Aguila

DRC MEMBERS PRESENT

Emily Schemper, Senior Director of Planning and Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Mayte Santamaria, Senior Planning Policy Advisor
Bradley Stein, Development Review Manager
Rey Ortiz, Assistant Building Official
Craig Marston, Deputy Fire Marshall, Upper Keys
Cassy Cane, Deputy Fire Marshal
Matthew Restaino, Senior Planner
Devin Rains, Planning and Development Permit Services Manager
Christina Gardner, Naval Air Station Key West

STAFF MEMBERS PRESENT

Peter Morris, Assistant County Attorney
Ilze Aguila, Senior Planning Commission Coordinator

APPLICANTS & PUBLIC PRESENT

D.A. Aldridge	Diane Beruldsen	Bill Hunter	Annalise Mannix
Dottie Moses	Stuart Schaffer	Bart Smith	

CHANGES TO THE AGENDA

There were no changes to the agenda. It was requested that Items 3 and 4 be read together.

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, July 21, 2020, by Emily Schemper.

MEETING

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 130-140 SAFE HARBOR COMMUNITY CENTER OVERLAY (SHCC), ESTABLISHING PURPOSE AND INTENT, PERMITTED USES, DENSITY AND INTENSITY, OFF-STREET PARKING, REQUIRED SETBACKS, SIGNAGE AND THE

BOUNDARY OF THE OVERLAY DISTRICT WHICH IS GENERALLY COMPRISED OF A CERTAIN AREA ON STOCK ISLAND, MONROE COUNTY, FLORIDA, BOUNDED BY FRONT STREET TO EAST, FOURTH AVENUE TO THE NORTH, FIFTH AVENUE TO THE NORTH, SHRIMP ROAD TO THE WEST AND SHRIMP ROAD TO THE SOUTH BUT EXCLUDING CERTAIN PROPERTY OWNED BY THE UTILITY BOARD OF THE CITY OF KEY WEST AND CERTAIN PROPERTY OWNED BY THE FLORIDA KEYS AQUEDUCT AUTHORITY BOUNDED BY FRONT STREET TO THE EAST; AS PROPOSED BY SMITH/HAWKS, PL ON BEHALF OF LONGSTOCK II, LLC; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2018-169)

Ms. Emily Schemper, Senior Director of Planning and Environmental Resources, noted that this item had been previously heard at the June DRC meeting where staff had requested more information from the applicant, most of which had been provided. Although this item is on the Planning Commission agenda for August 26, 2020, based on the advertising deadlines versus timing of review of all documentation, staff is requesting the Planning Commission continue this item until September. Staff has not prepared a Planning Commission staff report at this time, so the most recent staff report is today's DRC staff report.

Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report, first noting that the Navy had provided input at the June 23 meeting specifying that the overlay district is within the MIAI and the 60 to 64 DNL noise contours and requested continued coordination regarding any new uses. The uses of heavy industrial, heliports and seaplane ports have been stricken from the amendment. The Navy also requested disclosure statements, sound attenuation measures to be considered for the 65 DNL noise contour zone, and no drone activities be allowed on site with signage for awareness. The applicant has addressed the prohibition of drones. The traffic study and parking analysis still have a couple of outstanding items. One change from the June DRC to today is that based on the submitted traffic study and the gross acreage provided by the applicant, on the transient max net density table. The industrial parcels have been deducted as they are not eligible for transient max net density which resulted in a slightly lower number of 189.62 units. This equates to 1,515.06 increase in daily trips based on the potential traffic impact. There is also a proposed increase for low, medium and high-intensity commercial retail and restaurant uses within the maximum FAR proposed later on in the language. The traffic study did not delve into those increases. However, staff has done an analysis looking at the potential non-residential intensity increases and potential anticipated trip generation increases. The Code provides a clear definition of trip generation and those numbers are shown in the table beginning on page nineteen. The other trip generation numbers were derived from the eighth generation IT manual. This is to give an understanding of potential traffic impacts that may be seen. Staff is strongly recommending the inclusion of language indicating the applicant's proposed developments will need to demonstrate concurrency with the adopted level of service standards at the time of development approval. That language is included in the overlay district to specify that mitigation related to traffic concurrency is required at time of development approval. Staff is still working with the applicant through the traffic and parking comments. At the end of the staff report, the majority of the changes requested from the applicant have been addressed. Staff has

provided further clarification on some of the language specifying new uses are not being added in new zoning districts. Regarding traffic concurrency, there is a recommendation on page thirty-eight to include bicycle parking from an action item on the Stock Island Key Haven LCP. Staff is not recommending the reduction of parking due to ongoing conversation regarding justifying such a need. The applicant provided language prohibiting drones but it did not include signage. Further clarification on signage is needed for the Planning Director for approval. The applicant could provide specific language that allowed signage to be approved administratively. If there is not a specific code section modified by the overlay district, the existing adopted provision of the LDC would control. Staff recommends these changes be addressed for internal consistency and the language included.

Ms. Schemper provided a quick overview regarding the June DRC meeting explaining that this is a proposal to create the Safe Harbor Community Center Overlay District, generally based on the Livable CommuniKeys Plan for Stock Island. The table at the end of the staff report compares the proposal with the Livable CommuniKeys Plan. The items are to increase both floor area ratio and the max net density for hotel uses, which is transient max net with the use of TDRs. Those would be within current limits under the FLUM but increased over what is currently allowed under the zoning map. There is a request to decrease the parking standards for certain uses and change or increase the signage restrictions within the overlay district. Ms. Schemper presented the area proposed which is generally around the harbor. An accompanying map amendment will also be processed to go with this if this is approved. The parcels outlined in yellow are the property owners who have signed onto this text amendment and are in favor of it. The text amendment gives general boundaries.

Ms. Schemper asked for any further questions or comments from staff. There were none. Ms. Schemper then asked if the applicant would like to speak. Mr. Bart Smith spoke on behalf of the applicant, indicating that staff had done a good job of summarizing this and he believed staff's requested changes would be agreeable with the applicant. Ms. Schemper then asked for public comment.

Mr. Stuart Schaffer, Sugarloaf Shores POA, stated that he was not speaking in support of or in opposition to the proposed text amendment. Though he understands the benefit to Monroe County of more hotel rooms, retail and restaurant on the waterfront, he also understands concerns of residents of Stock Island over the rapid development and changing character of the island. Mr. Schaffer feels that no requested text or map amendment is appropriate unless the County rules are satisfied. This text amendment should not be approved unless the applicant can show that traffic and parking requirements are being complied with. This should be a very explicit condition of approval of the text amendment, and he believes that is what staff is recommending here. Mr. Schaffer is concerned with the level of service on the Stock Island segment of U.S. 1 especially with all of the new projects being developed and coming on line. No traffic determinations for this segment should be made without considering those projects in the pipeline such as Wrecker's Cay, SH Marinas, the Quarry Garden View Apartments and any others. Mr. Schaffer's second point was the resulting increased hotel and retail density should not be approved without the applicant being required to take measures that would benefit Monroe County and its residents, specifically quid pro quos. The bicycle parking, sidewalks being added, a percentage of the property being maintained for working waterfront uses and non-

hotel uses are great recommendations, but there are no requirements for the applicant to build more affordable workforce housing on the site. Mr. Schaffer is recommending that any approval of this text amendment should be conditioned on the applicant building a number of affordable workforce housing units at least equal to the estimated increase of the number of workers on the property as a result of the text amendment.

Mr. Bill Hunter first asked if the applicant's request for 1.5 parking spaces per dwelling unit for multi-family would apply to all residential development if it were approved. Ms. Schemper responded that it would apply to all residential development within this whether market rate, affordable, workforce housing, or any type permanent unit if it's multi-family. Mr. Hunter stated this was the basis for his concern. There seems to be a move to use market rate for vacation rentals in tourist hotels in this area of Stock Island and he envisioned a three-bedroom or more vacation rental with 1.5 parking places. Mr. Hunter expressed concern that the U.S. 1 arterial traffic time and delay study does not measure the traffic on Stock Island, the Cow Key Channel Bridge or the Key West triangle during the morning and evening rush hour. The current 2000 version of this study establishes a LOS B with 1,348 reserve trips on segment one, the Stock Island segment. The five percent below calculation adds 1,548 trips which must be mitigated. Some of the developments, as mentioned by Mr. Schaffer, have already been approved and construction begun. The Quarry uses 788 trips, and Waste Management uses 81 trips. The Key West Garden View Apartments which is a Key West development that does impact segment one uses 758 trips. This brings the reserve capacity 278 trips below LOS C, and leaves only 1,269 trips in that five percent below C pool. Wrecker's Cay says they're going to generate 1,567 trips of which 1,003 will reach U.S. 1, and that leaves 266 trips in the five percent below C pool. Wrecker's Cay hopes to use bicycle and bus trips to mitigate their way out of that five-percent below situation but Mr. Hunter does not believe that's practical. And, if that's the plan moving forward, all of these projected growth projects on Stock Island can be mitigated with buses and bicycles. The Safe Harbor previous traffic study estimated that additional hotel rooms would generate 1,055 trips and that 767 would reach U.S. 1. The new hotel estimates slightly lower but the restaurant traffic is not included. With Wrecker's Cay still having unmitigated trips in the five-percent below pool, that pool is 501 trips short to allow Safe Harbor rezoning, and we don't know how many trips the next agenda item SH Marina Holdings development is going to need. The County Traffic Planning Manual recommends that monitoring and regulating the development process in order to avoid adversely impacting the level of service on U.S. 1 is possible only through maintaining a record of the approved but un-built developments and undeveloped projects and their impacts on the reserve capacity of various U.S. 1 segments. The bottom line is we know how difficult it is for the Planning Commissioners and, if required, the County Commissioners to deny development requests when the existing zoning allows it. The Safe Harbor and SH Marina property owners wish to do something that the zoning does not allow. They want more tourist lodging and restaurants. Mr. Hunter is asking, do the Keys need more tourist lodging, and given all that you know about Stock Island traffic should Planning Staff recommend approval of these zoning applications.

Ms. Diane Beruldsen stated she was grateful for Mr. Schaffer's and Mr. Hunter's input. As someone who lives in Stock Island, without the development of Wrecker's Cay, College Road from the City of Key West and the Quarry, they are not filled up and these are projects that will add to the traffic now. Stock Island is over built for traffic. This is COVID times and not tourist

time and there is already trouble during rush hours. It's a different type of traffic for the workers living in Stock Island and that was the focus of Wrecker's Cay. Now there is a different project for the tourists and this is a totally different type of traffic. The tourists come with families, fill up the rooms and it's in and out multiple, multiple times. Ms. Beruldsen wishes that Planning would take into consideration what is happening right now. The traffic is tremendous right now and these traffic studies allow for this development. Ms. Beruldsen does not understand why the triangle wasn't considered in the traffic study. Ms. Beruldsen understands that the 2019 traffic study was rejected. It's amazing how the developers, just because they have a piece of land, can impact the rest of the residents. Every time there is a project waiving a setback ten feet or more, it takes away from the public parking. Stating that people travel by moped and bicycle is not reality. This is only something that is said so the most development can occur. Ms. Beruldsen is appealing to Planning to please consider what is happening right now. Stock Island is built out now with the new developments not even built. Stock Island was supposed to be a place for the workers to live, and now it's a place for the tourists to live. It's whatever the developer wants. Please be honest and don't create such stress in Stock Island. Do we need this hotel, all of this additional stress on the environment, and so much is being neglected just to appease this one particular development.

Ms. Annalise Mannix thanked staff for doing an excellent job on the staff report and appreciates that a problem with the traffic study was recognized. For all approvals, if the City or County doesn't have a good concept of how much traffic is really going to be there, then staff is not doing the citizens justice. Ms. Mannix stated that justice is needed for the citizens. The business owners have a right for the development already provided but don't have rights over and above what is provided by the code. The residents keep footing the bill on these cases and continue to be impacted by an inability to park their cars in reasonable, safe spaces on Stock Island. There is so much traffic getting onto U.S. 1 in the mornings and afternoons that the buildup and level of service is unacceptable. How any future increases in traffic can be approved when it is already in such bad shape is incomprehensible. The Livable CommuniKeys plan says the residents want a mixed variety of business but the intent was not to push out the commercial fishermen and the maritime heritage. Slowly but surely, this will reduce the number of boat slips and dry slips, and increase the number of areas for tourism and transient rentals. The community should be enhanced with roads having an efficient and visually attractive network of corridors. One project cannot be approved without concern for what its impacts are to the next project. The needs of the community as a whole should be looked at. The face of Stock Island is being changed dramatically. This project should not move forward unless all traffic impacts are approved. There should be no changes to zoning that provide more transient uses.

Ms. Christina Gardner, on behalf of the Navy, stated that the Safe Harbor Community Center Overlay District is within the MIAI and the 60 to 64 DNL noise contours. The AICUZ study indicates the type of uses proposed within this district are generally compatible but become less compatible as density and intensity increase. The Navy requests inclusion of noise disclosure statements in development agreements, consideration of sound attenuation measures as if it were in the 65 DNL noise contour, and prohibition of use of unmanned aerial vehicles or drones within the district, and continued coordination on the height of new development and the use of cranes.

Ms. Schemper noted that most of these comments had been addressed. Ms. Cioffari agreed these were discussed either on this application or another, but she would make sure that it was clarified. The applicant had addressed the noise disclosure and sound attenuation measures as if this were within the 65 DNL.

There was no further public comment. Public comment was closed. There was nothing further from staff or the applicant.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM MIXED USE (MU) TO DESTINATION RESORT (DR), FOR PROPERTY LOCATED AT 6000 PENINSULAR AVE., STOCK ISLAND, MILE MARKER 5, MONROE COUNTY, FLORIDA, HAVING PARCEL ID NO. 00127480-000000, AS PROPOSED BY SMITH / HAWKS, PL ON BEHALF OF SH MARINAS 6000, LLC; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2020-037)

Ms. Cheryl Cioffari presented the staff report. This is a request to amend the land use zoning district at 6000 Peninsular Avenue on Stock Island. The current zoning designation is Mixed Use. It is within the Mixed Use Commercial FLUM category. The proposed change is to Destination Resort. The applicant has submitted a development agreement between Banyan Grove and Stock Island Yacht Club to transfer 48 market rate permanent residential ROGO exemptions to the property, submitted under File 2020-047, as well as a right-of-way abandonment for a portion of Peninsular Avenue under File 2020-060. The Destination Resort zoning district is established within the Mixed Use Commercial FLUM and is consistent with the existing FLUM. The property is developed land with a little bit of mangrove, is within the MIAI boundary, the 70 to 74 DNL, and 75 to 79 DNL. Pursuant to Policy 108.2.6, residential use is strongly discouraged in DNL 70 to 74. When the community determines that these uses must be allowed, measures to achieve outdoor to indoor noise level reduction of at least 25 decibels in 65 to 69 DNL, and 30 decibels within 70 to 74, should be incorporated into building codes and individual approvals. For transient housing, a noise level reduction of at least 35 decibels should be incorporated into 75 to 79 DNL. Looking back historically, the property was within the BU-3 heavy business district and general use prior to 1986. Between 1986 and 1992, it was established within the Mixed Use zoning district to date. The applicant has specified the reasons for the proposed amendment would allow for the highest and best utilization of the property. It is just over 13 acres surrounded by Florida Keys waters at the end of Peninsular Avenue. There are a couple specific reasons that the applicant has proposed: One is to allow for the transfer of Wrecker's Cay market rate ROGOS. Though no application has been submitted to facilitate such a transfer, the applicant has described in the application that that is the intent. Both Mixed Use and Destination Resort zoning districts allow the utilization of water-related natural resources of the Florida Keys. Staff has provided a list of the permitted and conditional uses under these zoning districts to see those types of uses and what potentially would change with the change to Destination Resort. The applicant asserts that the proposed amendment would allow the property

to house a large transient resort and keep the existing marina. The Destination Resort zoning does allow for increased density under the transient max net density as compared to the Mixed Use zoning. Both districts are allowed under the Mixed Use Commercial FLUM and this is consistent with the Comp Plan. The applicant asserts that there are legally functioning vacation rentals that exist on the property. Staff comments are there are no legal vacation rental permits for any units on the property. In December of 2008, vacation rental permits were issued for Units A, B and C, but no additional vacation rental permits have been found on the property, nor are there any active vacation rental units on the property at this time. Both the Mixed Use and Destination Resort zoning allow vacation rentals pursuant to Section 134-1; however, the Mixed Use permits vacation rental units for detached dwelling units only, whereas Destination Resort allows for vacation rental units in attached dwelling units. The County does not recognize any legal vacation rental permits on the property at this time.

There was a community meeting held on August 6, 2020, to discuss this amendment. Comments related to the impact of the proposed LUD amendment to Wrecker's Cay, traffic impacts, a request to compare the traffic to the 2019 Arterial Time and Delay Study, that Stock Island is transitioning from a residential community to a commercial transient development community, the effects of receiving the Map Amendment approval without approval of resulting development concurrently, the effect of being within the AICUZ Zone and the MIAI, consistency with the code for transfers of market rate units, and change of types of units permitted to conduct vacation rentals. The main changes seen under the maximum allocated density and intensity is on page eight of the staff report. Under Mixed Use the transient max net density is 15 to 20 rooms or spaces per buildable acre, resulting in 157.15 to 209.54 rooms or spaces, divided among hotel rooms and institutional uses. Under Destination Resort, that would increase to 25 rooms or spaces per buildable acre resulting in 261.92 rooms or spaces. The anticipated change is approximately 52.38 new rooms or spaces. There is no change to residential market rate allocated max net for residential, affordable residential max net, and transient allocated. But for transient max net hotel rooms or spaces it is an increase of 52.38 rooms or spaces, and a decrease of non-residential development potential of 85,569. The proposed Zoning Amendment has been reviewed for concurrency with Comp Plan Policy 101.1.1 that looks at traffic circulation, potable water, solid waste and sanitary sewer. Based on the numbers provided, the proposed Zoning Amendment would increase rooms or spaces for max net transient development, and at the time of development on the site, traffic concurrency would be reviewed in order to ensure maintenance of a LOS C on segment one of U.S. 1. Staff finds the proposed Zoning Amendment is consistent with the potable water and solid waste. One update to the sanitary sewer is a letter of coordination was submitted from the Key West Resort Utilities Sewer System indicating there is sufficient capacity for a period of one year but, again, capacity at the time of any development approval and concurrency for sanitary sewer would be reviewed to confirm sufficient capacity. Staff does not anticipate that the proposed LUD would adversely impact any of the LOSs identified. Staff finds it is consistent with the Comp Plan and Livable CommuniKeys Plan. With regard to Section 102-158 of the Land Development Code under two changed assumptions, the applicant indicates that the property is changed from a boat yard to a private, gated yacht club with vacation rentals and is an area suitable for a large, transient resort hotel, and is in such a location that Stock Island has become slowly revitalized with resorts, restaurants, multi-family residential housing and other uses accustomed to a self-contained city.

Under new issues, the applicant asserts that for the property's just over 13 acres, the proposed zoning district is more in line with the size, structure and existing amenities. The proposed LUD amendment to Destination Resort is consistent with the purpose of the Destination Resort zoning district and does contain direct access to the Florida Keys water, has an upland acreage of over ten acres, and possesses a location where the development itself and amenities are such that off-site impacts could be reduced. The Destination Resort zoning district does require on-site amenities to be included such as shuttle transport services to airports and tourist attractions, and there are percentages provided within the code to limit the impact to adjacent properties when a property has this designation. This does not increase the allocated density of the property which is a stated goal of the Comp Plan, and would decrease the non-residential development of the property. The property is currently surrounded with a mixture of land uses including marina, commercial retail, office, light industrial and residential, and staff does not anticipate amending the zoning would result in an adverse community change to the surrounding area. Staff is recommending approval based on consistency with the Mixed Use Commercial FLUM and demonstration of traffic concurrency at the time of development approval.

Ms. Schemper asked for questions or comments from staff. There were none, though Ms. Schemper noted that obviously, traffic is a big issue on Stock Island as noted in the staff report, and traffic impacts from the change need to continue to be looked at. More detail on that will be included in the next staff report when this goes to the Planning Commission. Ms. Schemper then asked for any comments from the DRC members. There were none. Ms. Schemper then asked if the applicant wished to speak.

Mr. Bart Smith spoke on behalf of the applicant, indicating Ms. Cioffari had summarized everything very succinctly and he would continue to work with staff on any remaining issues to get this through to the finish line. One point of clarification, Wrecker's Cay has applied to transfer the units under File 2019-149. Ms. Schemper then asked for public comment.

Mr. Stuart Schaffer stated that his comments on this item were much the same as for the prior item, and he had three points to make on behalf of SSPOA. First, the applicant won't share their development proposals with staff or the public and is only saying that Destination Resort is a more appropriate zoning category for its project than Mixed Use, because this will be a resort and destination, and that is preposterous. Destination Resort clearly allows hotels and attached vacation rental units. Mixed Use allows hotels at lower max density and only detached vacation rental units, and that's what this is all about. It appears the applicant is ready to move at least 128 market rate ROGOs and 18 transient ROGOs onto the property to allow a much larger hotel than would be possible in Mixed Use. As previously stated, a requested Map Amendment would not be appropriate unless the County rules are satisfied, and again there is a traffic issue with this project. This time there is language in the staff report that is not quite as strong as the language in the Safe Harbor Community Center request. There is only a statement that staff is recommending approval based on the demonstration of traffic concurrency at the time of development approval. Mr. Schaffer would like this to be more strongly worded. It is a condition of any development based on this map amendment and he would look for a more clear instruction on this one. Traffic is of concern in this segment on Stock Island. The applicant's request for a Map Amendment allowing for more transient development on this property should not be approved without a quid pro quo for the County and its residents, and here there is none at

all. There is no requirement that the applicant has to build more affordable workforce housing on the site to house the increased number of workers on the location and this approval should be conditioned on that. Mr. Schaffer understands that Destination Resort zoning requires affordable workforce housing covering an area of at least ten percent of the area of the hotel floor area for the rooms, but that requirement does not apply to the floor area of the attached vacation rental units and those are going to be a hotel, and we all know that. It should cover that floor area as well and that should be a condition of this development approval that there be more affordable workforce housing sufficient for the workers for this project on site. There should also be language similar to the Safe Harbor Community Center regarding preserving working waterfront. This is a less intense working waterfront but there is still working waterfront there. Approval should be conditioned on maintaining working waterfront uses within the definition of Commercial Fishing, and that these not be allowed to be hotel uses.

Ms. Schemper noted that this is purely a zoning amendment so quid pro quo and conditions are not actually an option for a zoning amendment. It's either an approval or a denial in this case. The other one was a text amendment with more detail to it. Some of the previous big project items that have come before the BOCC have included things like Comp Plan Sub Area Policies and are a different animal. This is not discounting Mr. Schaffer's requests, but to inform that procedurally, that is not an option for a Zoning Amendment.

Ms. Annalise Mannix stated that providing for Destination Resort with multi-family transient uses is not consistent with affordable housing and causes a greater need for employees with lower-paying jobs living in roommate-filled homes, as has been increasing in the Lower Keys over the past twenty years. There may be some technicality that implies this is consistent with the plans, but it is not because it is creating more low-paying jobs which require more low-paying housing, which requires more roommates living together, and it is so easy to transmit diseases as we see now with COVID. The health of the community needs to be considered as opposed to how to get the best and highest use out of properties. Ms. Mannix does not understand the approvals that might negatively impact traffic, and any preliminary approval or positive recommendation for a project when it's not clear that the information presented is true and accurate. The County should pull back from moving things forward if information is not true and accurate and can be relied on. Allowing for detached transient rentals is a larger hotel, so no map amendment is warranted in this case. This is not a true Destination Resort and never will be. It's no Sandals or no Beaches Resort. There will still be people coming and going all day long to Key West, to commercial fishing areas, to tourism destinations up and down the Keys. Ms. Mannix does not recommend that this move forward.

Ms. Christina Gardner from the Navy noted that the property is within the MIAI and the 70 to 79 DNL noise contours, and the AICUZ discourages residential uses in noise zones above 70 DNL. If residential uses must be allowed, measures to achieve outdoor to indoor noise level reductions of at least 35 dB should be incorporated into building codes for those 75 to 79 contours and at least 30 dB for the 70 to 74 contours.

Ms. Dottie Moses asked if the Destination Resort zoning was approved, if the applicant would have an as-of-right ability to do everything allowed within that zoning and still have to meet the traffic concurrency. Ms. Schemper responded that they would have to meet traffic concurrency

at the time of development approval, even if it was an as-of-right use that went straight to building permit rather than through a conditional use permit. Ms. Moses asked with all of the developments coming forward around the same time, if it would be a matter of who gets in first versus getting pushed out because of traffic issues. Ms. Schemper responded that that was the way it worked. Ms. Schemper added that in the Destination Resort category, attached dwelling units are permitted as a major conditional use permit and would not go straight to building permit, and motels are permitted as a minor conditional use permit. Ms. Moses stated that it seems to be implied that because this is Destination Resort that people will come from the airport to the resort and stay there, but the TDC has shown that sightseeing is the top reason for tourists coming to the Keys, and that the majority of people prefer to drive down rather than fly down. This was a \$600,000 study on the behavior of tourists. She does not see how this would not have an impact on traffic just because it is called a "Destination Resort." There were also other comments in the letter she sent that she hoped staff would consider.

There was no further public comment. Public comment was closed. There were no further questions or comments from staff or agency representatives.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY 2030 COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT AND THE HOUSING ELEMENT TO ESTABLISH A NEW BUILDING PERMIT ALLOCATION CATEGORY TO ACCEPT AND AWARD 300 WORKFORCE HOUSING EARLY EVACUATION UNIT BUILDING PERMIT ALLOCATIONS PURSUANT TO THE WORKFORCE-AFFORDABLE HOUSING INITIATIVE (WORKFORCE INITIATIVE) AUTHORIZED BY THE FLORIDA ADMINISTRATION COMMISSION AND THE FLORIDA DEPARTMENT ECONOMIC OPPORTUNITY BY AMENDING AS WELL AS CLARIFYING POLICIES 101.2.2, 101.2.4, 101.3.1, 101.3.2, 101.3.3, 101.3.4, 101.3.10, 101.3.11, 601.1, 601.1.1, 601.1.2, 601.1.8, 601.1.11, 601.5.1 AND CREATING NEW POLICY 101.3.12 TO ESTABLISH THE SPECIFIC WORKFORCE INITIATIVE REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2020-067)

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE AMENDING THE SECTION 138-24, RESIDENTIAL ROGO ALLOCATIONS, TO ESTABLISH A NEW BUILDING PERMIT ALLOCATION CATEGORY TO AWARD 300 WORKFORCE HOUSING EARLY EVACUATION UNIT BUILDING PERMIT ALLOCATIONS PURSUANT TO THE WORKFORCE-AFFORDABLE HOUSING INITIATIVE (WORKFORCE INITIATIVE) AUTHORIZED BY THE FLORIDA ADMINISTRATION COMMISSION AND THE FLORIDA DEPARTMENT ECONOMIC OPPORTUNITY AND TO ESTABLISH THE SPECIFIC WORKFORCE INITIATIVE REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND

PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2020-068)

Ms. Mayte Santamaria, Senior Planning Policy Advisor, presented the staff report. There are two items before the DRC today, a Comp Plan amendment to amend the future land use and housing element, and a Land Development Code amendment to Section 138-24. Both items are to revise the policy documents to accept and award the 300 workforce housing early-evacuation allocations as offered by the Department of Economic Opportunity and the Florida Administration Commission. This went before the BOCC on numerous occasions to discuss the proposal provided by the State. The BOCC directed staff to accept the 300 workforce housing early-evacuation allocations to be used in exchange for existing affordable allocations at multi-family developments for developers that agree to the early-evacuation restriction, and that the affordable housing allocations returned to the County in exchange for the workforce units are to be set aside and banked for takings cases. This started May 2, 2018 when the then Governor Rick Scott issued a press release offering the workforce housing initiative that allowed up to 1,300 ROGOs for those cities to allow for up to 300 units per jurisdiction for rental workforce housing with the condition that the rental occupants evacuate in the early or 48-hour phase of an hurricane evacuation event. The Florida Administration Commission approved this program on July 13, 2018, and at that meeting for the cabinet, DEO made a presentation stating that the phase one evacuations, the 48-hour mark, could be accomplished within 17.5 hours leaving additional capacity of 6.5 hours in that phase, and that's how they were approving the up to 1,300 allocations within that 6.5 hours of available time. So far, the Cities of Islamorada, Marathon and Key West have already amended their Comp Plans to accept the 300 workforce units. Through several hearings, the ALJ recommended approval of the City amendments and that has been forwarded to DEO for review and issuance of a final order. Currently, the DEO has remanded the case back to DOAH to determine whether the amendments establish meaningful and predictable standards as required by Section 163.31771(1) F.S. so the outcome of the City amendments is unknown at this time.

Ms. Santamaria presented the main Policy 101.3.12 that establishes the workforce initiative, and the equivalent Land Development Code provisions. The policy and code amendments are developed to accept the 300 allocations and award them, and in the process of awarding them, the criteria established is a one-for-one exchange with affordable housing allocations through a reservation of the BOCC, and not a Planning Commission or staff decision. They can be exchanged for existing affordable housing allocations or existing deed-restricted units already built at multi-family developments. All affordable housing allocations would be returned back to the County and be banked and used for future administrative relief, beneficial use determinations, and to resolve inverse condemnation cases. Those returned to the County would be returned to their original affordable housing category as to the original low or moderate income pool. All units would require a deed restriction and development agreement for their approval. They must be workforce housing, rental occupancy, for occupants deriving at least 70 percent of their income as members of the workforce within Monroe County and who meet the categories within the Land Development Code, annually verified. All occupants must evacuate at the 48-hour mark of a hurricane event. Persons living within those workforce housing units could be exempted but are limited to law enforcement, correctional, fire, healthcare and public

employee personnel with emergency management responsibilities. If there is another type of employment that an occupant may have where they believe they are in a first responder position, they must present that in writing to the Planning Director to see if they qualify for not having to evacuate at the early phase, and they must maintain an affidavit of qualification and certify that with the on-site property management. All occupants would be required to sign a rental agreement that if they do not agree and adhere to the early evacuation, they could potentially be evicted from the units, and all units would require on-site property managers with their own agreements with the developer on maintaining training for evacuation procedures and be available for those phase one evacuations. If that is not done, they can receive penalties from their employer including termination. The property management entity needs to maintain details of the occupants and provide a report to the Planning Department by May 1 of each year, and keep those reports on file. These must be limited to Tier III locations, not placed in a V-Zone or CBRS, have available infrastructure and meet ADA compliance. Since this is a process of exchanging allocations with already approved or already built projects, language was added, to the greatest extent practical, the development should incorporate sustainable and resilient design principles and be near the employment centers in Key West, Stock Island and Marathon. That is because the units are already built at this stage. Staff is recommending approval based on the criteria and details established within both the Comp Plan and the Code. The draft today is only for the exchange of allocations and not for brand new units so this should not increase current development potential, nor change the character of existing standards on the available sites, and this potentially could help with liability in takings cases. Otherwise, if these criteria were not included in the Comp Plan and Code, staff does not recommend just a general acceptance of the 300 workforce housing allocations. There are other policies noted for cleanup in the staff report.

Ms. Schemper asked for questions or comments from staff or any agency representatives. There were none. Ms. Schemper then asked for public comment.

Ms. D.A. Aldridge was at the September 19, 2018 meeting and had asked for the County Attorney to research whether the State's Florida Workforce Housing Initiative, if implemented, would create a precedent that would require the State to award as many as 10,000 additional units in the future. That information is still there with some other verbiage, but these additional words do not respond to the question of whether this analysis was completed, what is the result of the analysis, and can the public receive a copy of the analysis. Ms. Aldridge is again asking these three questions. Ms. Santamaria responded that the BOCC had asked the County Attorney's Office to provide legal input on how to avoid the 6,000 to 8,000 takings cases and the potential precedent. Mr. Derek Howard had stated that generally speaking, they could not do a specific analysis on all privately-held vacant parcels because each of them has their own unique nuance, and there's no way to know which ones will challenge the County in the future. The agenda item before the Board on January 30, 2019 was to discuss potential strategies to address takings issues and multiple proposals were provided to the Board for their direction. This was the response to the Board's request for legal input. Ms. Aldridge noted that the way she reads the statement in the staff report it says very clearly that what the BOCC was concerned about was would the taking of the 300 create a precedent that would require the State to award as many as 10,000 additional units in the future, not about takings cases. Ms. Santamaria responded that she understands Ms. Aldridge's comments and she had relayed what she knew. Ms. Aldridge also read the proposed Policy 101.3.10 allowing the County to receive workforce initiative

allocations from a municipality via an inter-local agreement and these ROGOs will be subject to Policy 101.3.12, and asked that this sentence be struck. Layton and Key Colony have been awarded 300 workforce initiative ROGOs and they have stated that they have no need for them. There is also a question of whether Islamorada will use all of their 300 allocations. This proposed wording would allow the County to obtain 200-plus allocations via inter-local agreement. The various community organizations have spoken very strongly against even accepting the 300, and now the ability to accept almost double that number is not something that should be entertained by the County. If there are any ROGOS left after all takings or administrative cases have been settled, where in the proposed policy statements does it state what will happen to the remaining ROGOs in the administrative pool. Ms. Santamaria responded that currently there is nothing stated but if there are additional allocations left the assumption is with about 8,000 private vacant parcels and up to 300 banked allocations for administrative relief, beneficial use inverse condemnation and Harris Act cases, there is likely going to be no remaining allocations.

Ms. Annalise Mannix asked if there is any reason why the County could not require annual inspections of all workforce housing or affordable housing properties so that on an annual basis, it can be verified that there is access to facilities, amenities, parking, and recreational areas where development agreements provide for such workforce affordable housing. She had recently called about an apartment up the Keys and they said that the affordable housing people don't have access to the same facilities even though they are supposed to. Ms. Schemper asked if Ms. Mannix was asking whether a development is approved with conditions such as the units must have access to a playground area or a pool, that they be required to have annual inspections rather than leaving it to the Code Enforcement procedure. Ms. Mannix confirmed that's what she was referencing, and that a fee for that should be paid for by the development. Ms. Schemper responded that it is already in the Code for the income and maximum rent price qualification, and also a requirement when there is a change of tenancy or sale of a property with an affordable deed restriction. If there is something specific, that would normally be handled through Code Compliance. If something were written in, it may be difficult to implement, especially with a fee on the developer for staff's time. Ms. Santamaria added that there is a provision in development agreements for annual reports included in the Code and in Statute, and there have been past development agreements where they were required to annually report on certain provisions, but for other approval mechanisms as Ms. Schemper mentioned such as a conditional use or some other item where it just says the affordable housing needs to have 25 parking spaces, that is typically a Code Enforcement process to ensure that those conditions are continued to be satisfied. Ms. Mannix asked if that process was working because it does not seem to be working in a lot of areas, such as seeing a parking space being used for bicycles or where bicycle parking gets used for additional garbage storage. Additionally, the stormwater system needs to be inspected by a licensed professional, and swales that get filled in and the stormwater systems aren't being maintained. Ms. Santamaria noted that this item is for 300 allocations that would be in exchange for existing affordable allocations so other already built projects have their conditions. To move forward it would need to be put into other development review criteria for future projects. Ms. Mannix also does not believe there is sufficient evacuation time right now and adding development to the Keys does not seem appropriate at this time, so she is not in support of the additional units.

Mr. Stuart Schaffer of SSPOA thanked staff for the new version of amendments and stated that he can see that staff has considered the public's comments. However, this version still allows both the 300 early evacuation ROGOs and any banked affordable housing ROGOs received in exchange for them to be transferred to Keys municipalities and this violates the instructions given to staff by the BOCC that these ROGOs may only be used in exchange for existing affordable housing ROGOs, and the affordable housing ROGOs received must be banked for takings cases. It is clear that these should not be transferred to the municipalities because you would lose those limitations if you do that. Similarly, this also allows the municipalities to transfer their early evacuation allocations to the County. At the very minimum, this should only be allowed if the early evacuation allocations received by the County are limited in the same way as the County's own 300. Mr. Schaffer's view is it would be illegal if the County got more than 300 early evacuation ROGOs. The 2018 directives from the Administration Commission and DEO made very clear that no more than 300 could be issued to any of the Keys jurisdictions. Further, the banked affordable housing ROGOs can be used at any time to settle a takings case, and the concern here is now that there is an inventory of 300 more ROGOs on the shelf that can be used to settle takings cases that the County may be too willing to settle takings claims and not defend them when it should. This is why it had been requested that the banked ROGOs not be able to be used until all other ROGOs are gone and he would like to see that language. There should also be a requirement that the County must take reasonable efforts to defend any takings claims before issuing a banked ROGO in settlement. The concept should be the County shouldn't be any more willing to settle claims than they would have been if it would be a cash recovery, and that language is important. The language added referring to the 300 early evacuation ROGOs for affordable housing must be on a one-to-one basis, but Mr. Schaffer suggests the drafting be tightened a bit to make clear that they may only be exchanged on a one-for-one basis as it doesn't really say that. The new versions says the banked affordable housing ROGOs will retain their previous income categories after they are banked, but nothing says that the early evacuation ROGOs that are issued in exchange for those affordable housing ROGOs also have to match the existing income categories of the exchanged affordable housing ROGOs, which is an even more important point, and needs to be stated. The accessibility to employment centers requirement is to the greatest extent practicable, and that is very loose language. Although we're talking about affordable housing ROGOs for projects that already exist, not knowing where this is going to go after going through the process makes him nervous, and he prefers the standalone requirements of the early evacuation ROGOs. Does accessible mean getting on a bus where the bus routes run every two hours and taking a one-hour bus ride into Key West? That's accessible but not reasonably accessible because it's not very close. Also, the greatest extent practicable bothers him as a lawyer. The high cost of land near the employment centers makes building a project farther away more practicable, so these are large multi-unit projects with on-site property management and Mr. Schaffer is asking that they be required to be located within a specific number of miles within Key West, Stock Island or Marathon, such as five miles. As to the on-site property manager, in reading this there must be someone within five miles of the project, not necessarily on site, but they should actually be required to be on site as those were the words used by the State. Crafty developers would put a little office space or large closet with a sign saying property management but no one would ever be there. By adding within five miles, it doesn't have to be on site and that's moving in the wrong direction. There also needs to be a specific reference to an individual or employee who is on site during working hours, not an empty office.

Ms. Santamaria responded that she sees Mr. Schaffer's point, but had added the option of five miles because these were existing projects. Though Wrecker's and the Quarry have been mentioned, staff does not know which projects may want to participate in this or who would come up first, and it was the potential that if a site was already built out completely and had consumed all open space and couldn't build an office on site but did have a multi-family development, potentially they could have an office within five miles. It was restricted to a short distance so it wouldn't be multiple Keys away, but during traditional working hours the property manager must be at the office within the workforce housing early evacuation unit development subject property or be physically located within five miles of the subject property; and outside of working hours the property manager must be available at all times to respond to evacuation orders. This was simply because it would be an exchange for existing developments. Ms. Santamaria was trying to provide a bit of flexibility but does see the point that this can change through the process.

Mr. Peter Morris, Assistant County Attorney, added that the terms practicable and practical had been confused by Mr. Schaffer. Practical refers to something that's effective, useful or easy to use; and practicable means something that is or could be done.

Ms. Dottie Moses states she is opposed to the County accepting the 300 ROGOs. The evacuation issue is real. The term rapid intensification is used repeatedly by weather analyzers. This is a convoluted system creating a new category of ROGOs, and then they will be exchanged, so once they're exchanged, such as at Quarry, some of those units are in a V-Zone or will be with the new flood maps. Would this mean these early evacuation units cannot be in a V-Zone, so if they exchange them and then it turns out they are in a V-Zone, would they lose that status and need to be reallocated elsewhere? Ms. Santamaria stated that the intention in writing it is that they cannot be placed in a V-Zone. It would be based on whatever the applicable map was at the time of approval by the Board of the development agreement and ROGO reservation. In most circumstances, it would go by the effective provision at the time the development was approved so if at the time of approval the FEMA maps did not show a V-Zone, then it would be okay. Ms. Moses asked if the Quarry would only exchange some units or need to exchange all units in a particular building. Ms. Santamaria thought it could be a combination and the developer's choice if they wanted to exchange allocations. Ms. Moses asked if the exchange would be fixed to a certain unit, and Ms. Santamaria responded that she would recommend it be fixed. Ms. Schemper added that with affordable housing currently, if there is a mix of different income categories, individual units are not required to be designated as a certain income category. There could be some flexibility but the developer would have to show they have a way of meeting the requirements, meaning the reporting. In the end, it wouldn't matter if it's a fixed unit or a moving unit providing it's shown that requirements are met. Ms. Moses responded that it's a moving target that will be complicated to keep track of, more and more of a spider web, and another reason why she does not like this scenario. There are problems now enforcing restrictions and she does not see this working any better.

Ms. Schemper asked for any further staff questions or comments and there were none. Ms. Schemper then asked for public comment. There was none. Public comment was closed. Ms. Schemper asked when this item would move forward. Ms. Santamaria stated that at the earliest, it would be at the October or November Planning Commission meeting.

5. CUNNINGHAM LANE, BIG PINE KEY, MILE MARKER 31 (SENDER SITE) AND 231 EAST SHORE DRIVE SUMMERLAND KEY, MILE MARKER 25 (RECEIVER SITE): A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE TRANSFER OF 1 TRANSFERRABLE DEVELOPMENT RIGHT (TDR) FROM THE SENDER SITE TO THE RECEIVER SITE. THE SENDER SITE IS LEGALLY DESCRIBED AS BLOCK 1, LOT 16, PINE HAMMOCK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGE 163, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00250660-000000. THE RECEIVER SITE IS LEGALLY DESCRIBED AS LOT 17, SUMMERLAND ESTATES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 167, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00200610-000000. (FILE #2020-076)

Mr. Matthew Restaino, Senior Planner, presented the staff report. This is a minor conditional use application for transfer of development rights submitted by Mr. Bart Smith on behalf of Patrick Garvey, the sender site, and Summerland Resort Properties as the receiver site. The application is to transfer one TDR from a sender site on Cunningham Lane on Big Pine to a receiver site on East Shore Drive on Summerland Key. The owner of the receiver site wishes to construct seven dwelling units on the property pursuant to LDC Section 130-157. The receiver site has a max net density of seven dwelling units. Six TDRs are required to develop those seven dwelling units. In 2018, the same sender and receiver site transferred five development rights under Development Order 05-18, and the current application is to transfer one additional TDR from a sender site in Big Pine. The sender site on Big Pine is a parcel of land comprised of seven platted lots. Prior to the 2018 TDR application, the property had an allocated density of one development right per platted lot. In 2018, five of those were transferred. The density for two remained on the sender site. This current application would take one of the remaining development rights from Big Pine. Staff finds both the sender and receiver sites meet the criteria for approval of the transfer under LDC 130-160, and recommends approval.

Ms. Schemper asked for staff comments or questions. There were none. Ms. Schemper then asked if the applicant wished to speak. Mr. Jeff Goodall stated that Mr. Restaino had done a great job of explaining what was needed and he looks forward to working with staff to get this over the line. Ms. Schemper then asked for public comment. There was none. Public comment was closed.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 3:20 p.m.